

BILL NO. G-73-09-13

GENERAL ORDINANCE NO. G- 2773

An Ordinance amending Sections 3, 9, 14, 16, 20, 21, 23, 24, 25, 29, and 35 of the Zoning Ordinance to the City of Fort Wayne, Indiana, to transfer enforcement of the Zoning Ordinance from the Building Commissioner to the Zoning Enforcement Officer to be designated by the Plan Commission.

WHEREAS, on January 1, 1974, the City-County Building and Minimum Housing Department of Allen County will go into operation and the office of Building Commissioner of the City of Fort Wayne will be eliminated, and,

WHEREAS, the enforcement of the Fort Wayne Zoning Ordinance and the issuance of permits authorized by said Ordinance will not be a function of the Joint City-County Building and Minimum Housing Department of Allen County, and,

WHEREAS, the enforcement of said Ordinance and the issuance of permits pursuant thereto is now most desirably a function of the Plan Commission of the City of Fort Wayne, and this function should, therefore, be transferred from the Building Commissioner to a Zoning Enforcement Officer to be designated by the Plan Commission;

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA.

SECTION 1. Section 3, subsection (29) of Chapter 36 of the Municipal Code of the City of Fort Wayne, Indiana, 1946, as amended by General Ordinance No. 2836 and subsequent amendments, is hereby amended to read as follows:

Section 3. Definitions.

- (29) Improvement Location Permit - A permit issued by the Zoning Enforcement Officer stating that the proposed erection, construction, enlargement or moving of the building or structure referred to therein complies with the provisions of this chapter.

SECTION 2. Section 3 of Chapter 36 of the Municipal Code of the City of Fort Wayne, Indiana, 1946, as amended by General Ordinance No. 2836 and

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subsequent amendments, is hereby amended by adding thereto the following subsection:

Section 3. Definitions.

(61) Zoning Enforcement Officer - An official of the Plan Commission Staff of the City of Fort Wayne, Indiana, who issues any and all required permits and enforces the provisions of this chapter and the planning and zoning laws of the State of Indiana within the planning jurisdiction of the Fort Wayne Plan Commission.

SECTION 3. The second paragraph of Section 9 of Chapter 36 of the Municipal Code of the City of Fort Wayne, Indiana, 1946, as amended by General Ordinance No. 2836 and subsequent amendments, is hereby amended to read as follows:

The above districts and their respective boundaries are hereby established as shown by the symbols on the map entitled "City of Fort Wayne Zoning Map", dated September 16, 1969, which is on file in the office of the Plan Commission, which map and all explanatory matter thereon by reference is incorporated herein and made a part hereof.

SECTION 4. Section 14 of Chapter 36 of the Municipal Code of the City of Fort Wayne, Indiana, 1946, as amended by General Ordinance No. 2836 and subsequent amendments, is hereby amended to read in part as follows:

F. Permitted Uses - Specified Districts.

F. "B2" - "B2A", Regional and neighborhood shopping centers.

(4) Issuance of Permit:

The Zoning Enforcement Officer shall issue an improvement location permit for a shopping center as herein defined only following receipt of notice from the Plan Commission that the final development plan has been approved by the Plan Commission.

F. (6) (b) (iv).

In the event the Commission shall approve and order such development plan changed, altered, amended or extended, it shall so notify the Zoning Enforcement Officer, and he shall issue an amended improvement location permit accordingly.

L. "IA" District - Interchange Access District.

(3) Plan Commission Procedure:

(A) An applicant for an interchange access district permit shall apply therefor to the Commission upon forms to be prescribed by the Commission. Such application shall be filed with the Plan Commission. Such application shall be accompanied by a preliminary development plan for the entire tract, described in said petition, together with supporting data therefor.

(C) 2. If it finds that upon said plan being amended, altered or changed as specified by the Commission, it will meet the requirements of this chapter, it shall so notify the applicant and thereupon the applicant shall prepare and file with the Commission another preliminary plan and its supporting data incorporating such specified changes. Upon filing of the amended development plan complying with the required amendments of the Commission, the Commission shall approve the same and so notify the Zoning Enforcement Officer.

(5) Issuance of Permits:

The Zoning Enforcement Officer shall issue an improvement location permit for a use contained within an interchange district as herein defined only following receipt of notice from the Plan Commission that the final development plan has been approved by the Commission. No certificate of occupancy permit shall be issued by the Zoning Enforcement Officer until all buildings, landscaping, parking lots, driveways, sidewalks, etc., are installed in accordance with the approved plan.

(6) (C) The Zoning Enforcement Officer may, after investigation, seek to enjoin the operation of said interchange access district if a substantial compliance of said plan has not been achieved in the time limit as herein set forth.

(7) Permits:

(B) Amendments to Development Plan:

4. In the event the Commission shall approve and order such development plan changed, altered, or amended or extended, it shall so notify the Zoning Enforcement Officer and he shall issue an amended improvement location permit accordingly.

N. Planned Unit Development.

22. Phasing. The establishment of common open spaces and construction of public or common recreational facilities shown on the recorded planned unit development plan together with the construction of other non-residential structures shall proceed substantially in accordance with the phasing program referred to in Section 15:6.

After general construction commences, the Director of Planning shall review, at least once every six (6) months, all building permits issued and compare them to the over-all development phasing program. If he determines that the rate of construction of residential units or non-residential structures substantially differs from the phasing program, he shall so notify the developer and the Zoning Enforcement Officer, in writing; thereafter the Zoning Enforcement Officer may issue such orders to the developer as he sees fit, and upon continued violation of this subsection may suspend the developer from further construction of dwelling units or non-residential structure until compliance is achieved.

SECTION 5. Section 16 of Chapter 36 of the Municipal Code of the City of Fort Wayne, Indiana, 1946, as amended by General Ordinance No. 2836 and subsequent amendments is hereby amended to read in part as follows:

Section 16. Residential Lot Area Requirements.

(B) Exceptions to area and width requirements:

(5) "R3" District - In an "R3" District the Zoning Enforcement Officer may issue an improvement and location permit and a certificate of occupancy for a multi-family dwelling having minimum lot areas of one thousand (1,000) square feet per dwelling unit providing the following conditions are satisfied:

D₁. The Zoning Enforcement Officer shall issue an improvement location permit when the developer has satisfactorily proven to the Zoning Enforcement Officer that the following conditions exist:

D₂. If the Zoning Enforcement Officer does not issue an improvement location permit within fifteen (15) days after written demand to do so by a developer or applicant, an appeal will lie to the Board of Zoning Appeals.

J. In no event shall the Zoning Enforcement Officer issue an improvement location permit or a certificate of occupancy for a use where the density exceeds one thousand (1,000) square feet per living unit for structures of three (3) to five (5) stories and one thousand two hundred and fifty (1,250) square feet for structures two (2) stories or less except by action of the Board of Zoning Appeals.

SECTION 6. Section 20 of Chapter 36 of the Municipal Code of the City of Fort Wayne, Indiana, 1946, as amended by General Ordinance No. 2836 and subsequent amendments is hereby amended by adding thereto the following:

Section 20. Improvement location permit.

A. No building or structure, except buildings incidental to non-residential agricultural uses shall be erected, reconstructed, enlarged or moved until an improvement location permit shall have been applied for in writing and issued by the Zoning Enforcement Officer.

B. No improvement location permit shall be issued by the Zoning Enforcement Officer for the proposed erection, reconstruction, enlargement or moving of a building or structure unless the proposed erection, reconstruction, enlargement or moving of a building or structure conforms with the provisions of this chapter.

C. Applications for improvement location permits shall be made upon form prescribed by the Zoning Enforcement Officer and shall be accompanied by plans and specifications of sufficient detail to enable the Zoning Enforcement Officer to determine whether the proposed improvement will comply with the provisions of this chapter.

D. Every permit may be revoked if active work is not commenced within sixty (60) days after the date of its issue, and continued with due diligence to completion; and the Zoning Enforcement Officer shall judge if due diligence is being shown and shall notify the owner or agent in case due diligence is not being shown.

E. If the Zoning Enforcement Officer determines that the work under any permit is not being continued with due diligence to completion or is not proceeding according to the detailed statement, plans and specifications, upon which such permit was issued, or is proceeding in violation of law, it shall be his duty to give written notice thereof to the owner or his agent, requiring that the same must be immediately rectified.

F. If the owner or his agent neglects to comply with the provisions of such notice within such time as may be specified by the Zoning Enforcement Officer, or fails to commence active work within sixty (60) days after the date of issue, it shall be the further duty of the Zoning Enforcement Officer to revoke said permit and written notice thereof shall be immediately served upon the owner, agent, superintendent or contractor in charge of the work, or posted on the property.

SECTION 7. Section 21 of Chapter 36 of the Municipal Code of the City of Fort Wayne, Indiana, 1946, as amended by General Ordinance No. 2836 and subsequent amendments, is hereby amended to read in part as follows:

Section 21. Certificate of Occupancy.

A. No occupancy, use or change of use, except buildings incidental to non-residential agricultural uses shall take place until a certificate of occupancy shall have been applied for in writing and issued by the Zoning Enforcement Officer, in the following cases:

SECTION 8. Section 23 of Chapter 36 of the Municipal Code of the City of Fort Wayne, Indiana, 1946, as amended by General Ordinance No. 2836 and subsequent amendments, is hereby amended to read in part as follows:

Section 23. Enforcement.

A. It shall be the duty of the Zoning Enforcement Officer to enforce the provisions of this chapter in the manner and form and with the powers provided by this chapter and any and all other provisions of this Code, and as provided in the laws of the State of Indiana.

SECTION 9. Section 24 of Chapter 36 of the Municipal Code of the City of Fort Wayne, Indiana, 1946, as amended by General Ordinance No. 2836 and subsequent amendments, is hereby amended to read in part as follows:

Section 24. Filing Fees.

- A. For each application for an improvement location permit, the sum of Three Dollars (\$3.00) to be paid to and collected by the Zoning Enforcement Officer.
- B. For each application for a certificate of occupancy the sum of Three Dollars (\$3.00) to be paid to and collected by the Zoning Enforcement Officer.
- C. For each petition for an appeal from the decision of the Zoning Enforcement Officer to the Board of Zoning Appeals, a fee of Fifty Dollars (\$50.00) to be paid to and collected by the Zoning Enforcement Officer, the receipt for which shall accompany the petition.
- D. For each application for the approval by the Commission of a "B2" Regional Shopping Center Development Plan or a "B2A" Neighborhood Shopping Center Development Plan, or an "IA" Interchange Access Center Development Plan, a fee of Fifty Dollars (\$50.00) to be paid to and collected by the Zoning Enforcement Officer, the receipt for which shall accompany the application.

SECTION 10. Section 25 of Chapter 36 of the Municipal Code of the City of Fort Wayne, Indiana, 1946, as amended by General Ordinance No. 2836 and subsequent amendments, is hereby amended to read in part as follows:

Section 25. Penalties.

- B. The erection, construction, enlargement, conversion, moving or maintenance of any building or structure and the use of any land or building which is continued, operated or maintained contrary to any provisions of this chapter is hereby declared to be a nuisance and in violation of this chapter and unlawful. The Plan Commission by its Zoning Enforcement Officer may institute a suit for injunction in the Circuit Court or any Superior Court of the County to restrain any person or governmental unit from violating any provision of this chapter and to cause such violation to be prevented, abated or removed. Such action may also be instituted by any property owner who may be especially damaged by the violation of any provision of this chapter.

SECTION 11. Section 29 of Chapter 36 of the Municipal Code of the City of Fort Wayne, Indiana, 1946, as amended by General Ordinance No. 2836 and subsequent amendments, is hereby amended to read in part as follows:

Section 29. Powers of the Board of Zoning Appeals.

- A. The Board of Zoning Appeals shall:

- (1) Hear and determine appeals from and review any order, requirement, decision or determination made by the Zoning Enforcement Officer and any

other administrative official or board charged with the enforcement of this chapter or any regulation adopted pursuant hereto;

SECTION 12. Section 35 of Chapter 36 of the Municipal Code of the City of Fort Wayne, Indiana, 1946, as amended by General Ordinance No. 2836 and subsequent amendments, is hereby amended to read in part as follows:

Section 35. Permit for Alteration or Destruction of Structures - Application.

No application for any special permit is required under this article. If an application is made under other provisions of the law for demolition or substantial alteration of any structure in an historical district established under Section 34, or for the erection of any new structure in an historical district so established, the Zoning Enforcement Officer shall forthwith refer the application to the Board of Zoning Appeals. No such referral is required if the application is for an alteration which is not substantial.

SECTION 13. If any part, parts, section, sections, provision, clause or portion of this Ordinance shall be adjudged invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of this Ordinance as a whole or of any other part, section, clause, provision, or portion of this Ordinance.

SECTION 14. This Ordinance shall be in full force and effect from and after its passage, approval by the Mayor, and legal publication thereof.


John Guckols
Councilman

APPROVED AS TO FORM
AND LEGALITY,


K. K. Che
CITY ATTORNEY

Read the first time in full and on motion by Nuckols, seconded by Talarico, and duly adopted, read the second time by title and referred to the Committee on Regulations (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, the _____ day of _____, 197_____, at _____ o'clock P.M., E.S.T.

Date: 9-11-73

Charles W. Stierman
CITY CLERK

Read the third time in full and on motion by Nuckols, seconded by Hinga, and duly adopted, placed on its passage. Passed (D.E.S.T) by the following vote:

AYES	<u>8</u>	NAYS	<u>0</u>	ABSTAINED	_____	ABSENT	<u>1</u>	to-wit:
BURNS	<u>✓</u>							
HINGA	<u>✓</u>							
KRAUS	<u>✓</u>							
MOSES							<u>✓</u>	
NUCKOLS	<u>✓</u>							
SCHMIDT, D.	<u>✓</u>							
SCHMIDT, V.	<u>✓</u>							
STIER	<u>✓</u>							
TALARICO	<u>✓</u>							

DATE: 11-13-73

Charles W. Stierman
CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (Zoning Map) (General) (Annexation) (Special) (Appropriation) Ordinance (Resolution) No. 9-27-73 on the 13th day of November, 1973.

ATTEST: (SEAL)

Charles W. Stierman
CITY CLERK

Sam M. Talarico
PRESIDENT OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 14th day of November, 1973, at the hour of _____ o'clock A. M., E.S.T.

Charles W. Stierman
CITY CLERK

Approved and signed by me this 14th day of November, 1973, at the hour of 4:00 o'clock P. M., E.S.T.

Don A. Richard
MAYOR

RESOLUTION OF ZONING ORDINANCE TEXT AMENDMENT RECOMMENDATION

WHEREAS, the Common Council of the City of Fort Wayne, Indiana, on September 11, 1973, referred a proposed zoning text amendment to the City Plan Commission which proposed ordinance was designated as Bill No. G-73-09-13; and,

WHEREAS, the required notice of public hearing on such proposed ordinance has been published as required by law; and,

WHEREAS, the City Plan Commission conducted a public hearing on such proposed ordinance on October 15, 1973;

NOW THEREFORE, BE IT RESOLVED that the City Plan Commission does hereby recommend that such proposed ordinance DO PASS for the reasons that a need has been shown for the Text of the Zoning Ordinance to be amended, and the amendment will be in the best interest of and benefit to the City of Fort Wayne;

BE IT FURTHER RESOLVED that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

This is to certify that the above is a true and exact copy of a resolution adopted at the meeting of the Fort Wayne City Plan Commission held October 15, 1973.

Certified and signed this
22nd. day of October, 1973.


Gretchen Wiegel
Secretary

Hause
10x
John G. Schmidt

Bill No. G-73-09-13

REPORT OF THE COMMITTEE ON REGULATIONS

We, your Committee on Regulations to whom was referred an Ordinance
An Ordinance amending Sections 3, 9, 14, 16, 20, 21, 23, 24 25,
29, and 35 of the Zoning Ordinance to the City of Fort Wayne,
Indiana, to transfer enforcement of the Zoning Ordinance from the
Building Commissioner to the Zoning Enforcement Officer to be
designated by the Plan Commission

have had said Ordinance under consideration and beg leave to report back to the Common
Council that said Ordinance do PASS.

John Nuckols-Chairman

Vivian G. Schmidt - Vice-Chairman

William T. Hinga

Paul M. Burns

Donald J. Schmidt

John Nuckols
Vivian G. Schmidt
William T. Hinga
Paul M. Burns
Donald J. Schmidt

CONCURRED IN
DATE 11-13-93 CHARLES W. WESTERMAN, CITY CLERK

Number assigned by Dave Keller's Office: # 3229

Admn. Appr. ✓

DIGEST SHEET

B-73-09-13

TITLE OF ORDINANCE General Ordinance amending the text of the Zoning Ordinance
transferring enforcement of zoning to the Plan Commission

DEPARTMENT REQUESTING ORDINANCE City Plan Commission

SYNOPSIS OF ORDINANCE An ordinance amending Sections 3, 9, 14, 16, 20, 21,
23, 24, 25, 29 and 35 of the Zoning Ordinance to the City of Fort Wayne, Indiana

to transfer enforcement of the Zoning Ordinance from the Building Commissioner
to the Zoning Enforcement Officer to be designated by the Plan Commission.

EFFECT OF PASSAGE The Plan Commission would have control of zoning
enforcement

EFFECT OF NON-PASSAGE The Building Commissioner would continue with
zoning enforcement

MONEY INVOLVED (Direct Costs, Expenditures, Savings) None

ASSIGNED TO COMMITTEE (J.N.) Peg



CITY OF FORT WAYNE
CITY-COUNTY BUILDING
ONE EAST MAIN STREET
FORT WAYNE, INDIANA 46802

CHARLES W. WESTERMAN
CITY CLERK

November 20, 1973

Miss Helen Libbing
Fort Wayne Newspapers, Inc.
600 West Main Street
Fort Wayne, Indiana 46802

Dear Miss Libbing:

Please give the attached full coverage on the dates of November 23 and November 30, 1973, in both the News Sentinel and Journal Gazette.

RE: Legal Notice for the Common Council
of Fort Wayne, Indiana -
General Ordinance No. G-28-73
Subdivision Control Ord. from the
Building Commissioner to a Zoning
Enforcement Officer

General Ordinance No. G-27-73
to transfer enforcement of the
Zoning Ordinance from the Building
Commissioner to the Zoning Enforce-
ment Officer to be designated by
the Plan Commission.

Please send us four (4) copies of the Publisher's Affidavit from each newspaper.

Thank you.

Sincerely,

Charles W. Westerman
City Clerk

CWN/ne
ENCL: 2

COMMON COUNCIL, CITY FORT WAYNE
(Governmental Unit)

To.....NEWS-SENTINEL.....Dr.

ALLEN County, Ind.

FORT WAYNE, INDIANA

PUBLISHER'S CLAIM

LINE COUNT

Display Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of the type in which the body of the advertisement is set)
— number of equivalent lines

Head	number of lines	1
Body	number of lines	521
Tail	number of lines	2
Total number of lines in notice		524

COMPUTATION OF CHARGES

.524 lines, 1 columns wide equals.....equivalent lines at.....288¢
cents per line \$ 150.91

Additional charge for notices containing rule or tabular work (50 per cent of above amount)

Charge for extra proofs of publication (50 cents for each proof in excess of two) (2) 1.00

TOTAL AMOUNT OF CLAIM \$ 151.91

DATA FOR COMPUTING COST

Width of single column 11 ems Size of type 5½ point

Number of insertions two Size of quad upon which type is cast 5½

Pursuant to the provision and penalties of Ch. 89, Acts 1967,

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

A. M. Hostman

Date 11-30-73, 19.....

Title Clerk

I certify that the above and foregoing is a full, true and correct copy of General Order.

Police Grab Two You!

KENDALLVILLE — Indiana state Police arrested two DeKalb County juveniles about 4 p.m. Thursday in the Hi-Vue Drive-In Theatre on charges of vandalism and burglary.

The two — aged 15 and 13 — were listed as runaways. They are charged in connection with an estimated \$15,000 damage to structure and facilities at the drive-in.

Police recovered about \$200 worth of western style clothing

PUBLISHER'S AFFIDAVIT

State of Indiana } ss:

ALLEN County }

Personally appeared before me, a notary public in and for said county and state, the undersigned A. M. Hostman, who, being duly sworn, says that She is Clerk of the NEWS-SENTINEL

Central Lions Holiday Dinner DAILY newspaper of general circulation printed and published

in the English language in the city of FORT WAYNE, INDIANA in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for 2 times, the dates of publication being as follows:

November 23 and 30, 1973

A. M. Hostman

Subscribed and sworn to before me this 10th day of November 1973

Edith Stapleton

Notary Public

My commission expires MARCH 31, 1974

TASTEE-FREEZ

COMMON COUNCIL, CITY FORT WAYNE
(Governmental Unit)

To JOURNAL-GAZETTE Dr.

Allen County, Ind.

FORT WAYNE, INDIANA

PUBLISHER'S CLAIM

LINE COUNT

Display Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of the type in which the body of the advertisement is set)
— number of equivalent lines

Head	number of lines	<u>1</u>
Body	number of lines	<u>521</u>
Tail	number of lines	<u>2</u>
Total number of lines in notice		<u>524</u>

COMPUTATION OF CHARGES

524 lines, 1 columns wide equals..... equivalent lines at .2624 cents per line \$ 150.92

Additional charge for notices containing rule or tabular work (50 per cent of above amount)

Charge for extra proofs of publication (50 cents for each proof in excess of two) (2) 1.00

TOTAL AMOUNT OF CLAIM \$ 151.92

DATA FOR COMPUTING COST

Width of single column 11 ems Size of type 5½ point

Number of insertions two Size of quad upon which type is cast 5½

Pursuant to the provision and penalties of Ch. 89, Acts 1967,

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

Arvilla De Told

Date 11-30-73, 1973

Title CLERK

PUBLISHER'S AFFIDAVIT

State of Indiana } ss:
ALLEN County } ss:

Personally appeared before me, a notary public in and for said county and state, the undersigned ARVILLA DE TOLD who, being duly sworn, says that she is _____ of the

JOURNAL-GAZETTE

a DAILY newspaper of general circulation printed and published in the English language in the city of FORT WAYNE, INDIANA in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for 2 time(s), the dates of publication being as follows:
November 23 and 30, 1973

Arvilla De Told

Subscribed and sworn to before me this 20th day of November 1973

Eartha Stapleton
Notary Public

My commission expires March 4th, 1974

